

As set forth in the amended Specification, first paragraph, this application is a continuation of copending application Serial No. 356,361 filed on May 23, 1989; which is a continuation of copending application Serial No. 222,378 filed on July 19, 1988; which is a continuation of application Serial No. 34,918 filed on April 6, 1987, now abandoned; which is a continuation of application Serial No. 828,729 filed February 11, 1986, now U. S. Patent No. 4,658,336, which is a continuation of application Serial No. 648,032 filed September 6, 1984, now U. S. Patent No. 4,577,263.

The foregoing requested amendments to the Specification, drawings, abstract and claims of the parent utility application are editorial in nature and have been made to conform the disclosure of the parent application to the form applicable to a design patent application.

The drawings supplied herewith are perspective, elevational, front and back views of the flashlight design shown and described in application Serial No. 648,032 filed September 6, 1984, now U. S. Patent No. 4,577,263. It is noted that Figures 1 through 4 submitted herewith show various views of all aspects of the design of the flashlight shown in Figure 8 as well as Figures 1 and 2 of application Serial No. 648,032.

Applicant relies on its prior U. S. applications for the benefit of priority under 35 U.S.C. §120 and notes that priority for this design application is based on the previous series of utility applications as set forth above. This procedure has been recently approved by the U. S. Court of Appeals for the Federal Circuit. Under Racing Strollers, Inc. v. Tri Industries Inc., Slip Opinion (Fed. Cir. 1989), the Federal circuit overruled In

re Campbell, 41 CCPA 896, 212 F.2d 606, 101 USPQ 406 (1954) and observed that there is no statutory prohibition against claiming priority under 35 U.S.C. §120 for a design patent application based on a disclosure in a utility patent application if the statutory conditions are met. A copy of slip opinion in a Racing Strollers is submitted herewith for the convenience of the Examiner.

Here, Applicant submits that the design of the present application is fully set forth, as required by 35 U.S.C. §112, first paragraph, in the parent and prior applications. Specifically, the flashlight design of the present application is the one with the appearance as described and shown in Figure 8 as well as Figures 1 and 2 of the parent application and each preceding parent application back to and including application Serial No. 648,032.

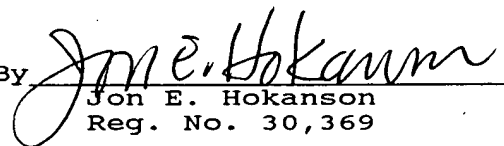
It is submitted that the claim for the ornamental design shown herein is allowable and such early action is respectfully requested.

Respectfully submitted,

LYON & LYON

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By

  
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